wpoint and that he would consider and think about it.

PROF. RAM BAKSH SINGH VARMA (Uttar Pradesh): Madam Deputy Chairman, one minute.

THE DEPUTY CHAIRMAN: We have decided not to discuss it. Now everybody is discussing it. It is again disorder. If you want, we will have a discussion. Let it be in order. ...*(Interruptions)*...

I have asked one Member. One minute.

प्रो॰ राम बक्श सिंह वर्मा: मैडम, आपने मुझे आज्ञा दी थी। मैं केवल एक मिनट के लिए एक्क्लैरीफिकेशन चाहता था। जहां माननीय संसदीय कार्य मंत्री जी ने अभी बहुत से आश्वासन दिये हैं। मैं आपके माध्यम से और इस सदन के माध्यम से उनके संज्ञान में लाना चाहता हूं कि माननीय सभापति महोदय और लोक सभा के माननीय स्पीकर, दोनों की सहमति से हुआ था कि इस वर्ष के लिए प्रत्येक सांसद के सुझाव पर दो करोड़ रुपये अपने कॉन्स्टीट्यूऐंसी में खर्च करने के लिए सरकार की ...(**व्यवधान**)...

उपसभापति: इसका इससे कोई ताल्लुक नहीं है।

We are not bringing in anything which is beyond the purview of this Bill. आप दो करोड़ या चार करोड़ मांगिए, पर इस पर नहीं बोलिए।

प्रो॰ राम बक्श सिंह वर्मा: लेकिन क्या स्थिति है, यह मैं जानना चाहता हूं?

THE DEPUTY CHAIRMAN: Not at this point of time. It is out of order. बाद में पूछ लीजिए, बिल हो जाए।

DR. ARUN KUMAR SARMA (Assam): Madam, I wanted to know one point. There are some States which have only two MPs. If there is a regional party representing that State, there should be some provision. It may not be the whole thing given to a bigger party. There should be some provision. They should also be given something. That should be considered. That is my view.

THE DEPUTY CHAIRMAN: The question is:

"That the Bill to provide for facilities to Leaders and Chief Whips of recognised parties and groups in Parliament, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 5 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

श्री मदन लाल खुराना: मैडम, मैं मोशन रखता हूं, "इस बिल को पारित किया जाए।"

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: Now, we move on to the next item—The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 1998. Shri M. Thambi Durai.

THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) AMENDMENT BILL, 1998.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND MINISTER OF SURFACE TRANSPORT (SHRI M. THAMBI DURAI): Madam, I move:

That Bill, further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, as passed by Lok Sabha be taken into consideration.

As you are aware, when an Officer of the State Judicial Service is appointed as a Judge of a High Court, his leave account is regulated under the provisions of the High Court Judges (Salaries and Conditions of Service) Act, 1954. Accordingly, a Judge is entitled to carry forward only the leave earned to the extent of two hundred and forty days. He is, however, not entitled to carry-forward the half pay leave in his leave account in

the Judicial Service. Representations have also been received from some Judges, requesting for a provision in the High Court Judges Act to enable them to avail the benefit of carry-forward of half pay leave. The carry-forward of half pay leave is permissible to officers of All India Services. In view thereof, it is proposed to make a suitable amendment to the High Court Judges Act to provide for the same. Similarly, the Registry of the Supreme Court has requested for deleting the restrictions of two hundred and forty days for the carry-forward of leave on full allowances when a Judge of High Court is elevated to the Supreme Court. It is proposed to accede to the request and the restriction of two hundred and forty days provided under section 4(2)(a)(iii) of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, is proposed to be done away with.

A High Court Judge or a Supreme Court Judge is entitled, without payment of rent, to the use of official residence. Where a Judge does not avail himself of the use of such residence, he is paid every month an allowance i.e. Rs. 2,500/- per month in the case of a Judge of a High Court and Rs. 3,000/- per month in the case of a Judge of the Supreme Court. Although there has been steep increase in the market rent of the Houses, the allowances payable to the Judges in lieu of official residence, has remained static since 1986. This acts as a serious disincentive for Judges to occupy their own houses and accept the facility of House Rent Allowance (HRA). Few State Governments have to make appropriate residences available to Judges at much higher costs. Accordingly, it is proposed to increase HRA to Rs. 10,000/- per month in respect of the High Court and Supreme Court Judges, at a flat rate. Many of the State Governments have favoured the raising of HRA for the High Court Judges to Rs. 10,000/- per month.

The rates of pension of the Judges of High Court and Supreme Court were last enhanced with effect from the 1st November, 1986 by the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986. The Fifth Central Pay Commission recommended revision in the pensionary benefits of the Central Government employees including the members of All India Services. The revised pension rules have come into force on the first day of January, 1996. In view of foregoing, a necessity is felt to increase the pension additional pension and maximum pension of the Judges of the High Courts and the Supreme Court. The rate of revision of pension has been taken as 3.25 times universally in respect of all retired Judges w.e.f. 01.01.1996.

It is also proposed to enhance the entitlement of family pension from fifty per cent to sixty per cent of the pension admissible to a Judge upto the age of sixty five years of such Judge had he survived or first seven years after his death, whichever is earlier, and thereafter from twenty five per cent to thirty per cent of his pension subject to minimum of Rs. 1,275/- per month, on the analogy of the recommendation of the Vth Pay Commission.

In the case of a Judge who has been elevated from the Bar, the existing provision provides for computation of Death-cum-Retirement Gratuity amounting to 20 days salary for each completed year of service unlike on half yearly basis applicable to in the case of a Central Government employee. It is now proposed to grant ten days salary as gratuity for each completed one-half year of service.

It is also proposed to remove the ceiling of Rs. 8,000/- per annum as special additional pension in compliance with the order dated the 20th January, 1991 of the Supreme Court of India in the matter of Justice M.L. Jain *versus* Union of India.

I hope the Bill will receive the whole hearted support of the Hosue.

The question was proposed.

THE DEPUTY CHAIRMAN: Now I have four names from the BJP itself who wanted to speak on this Bill. Shri Sangh Priya Gautam, Chaudhary Chunni Lal...(*Interruptions*)...

SHRI R. MARGABANDU (Tamil Nadu): Madam, let this Bill be passed without any discussion. We are all dealing with Judges. They are dispensing justice. Let there not be any debate on that aspect. Let it be passed without any discussion.

श्री संघ प्रिय गौतम (उत्तर प्रदेश): मैडम, मैं केवल दो सुझाव देना चाहता हूं जो कि बहुत जरूरी हैं। मैं विधेयक का तहेदिल से समर्थन करता हूं। आप मुझे इसकी इजाजत दे दीजिए।

उपसभापति: हां, आप सुझाव दे दीजिए।

श्री संघ प्रिय गौतम: मैं इस विधेयक का समर्थन करता हूं। माननीय सर्वोच्च न्यायालय, उच्च न्यायालय और सभी न्यायाधीशों का सम्मान करता हूं। महोदया, जैसा कि आप जानती हैं कि राज्य सभा का समय आमतौर से 11.00 बजे से 5.00 बजे तक होता है लेकिन हम कभी-कभी सात-आठ और रात के 11.00 तक भी बैठते हैं। हम कोई ओवर-टाइम भी नहीं लेते हैं। कभी-कभी हम शनिवार और इतवार को भी बैठते हैं। हमारे यहां तीन करोड़ मुकदमे न्यायालयों के सामने विचाराधीन है। इसलिए मैं इस सदन के माध्यम से प्रार्थना करूंगा कि न्यायालय 10.00 बजे से 5.00 बजे तक बैठना प्रारम्भ कर दें, थोड़ा सा समय बढ़ा लें।

मैं दूसरी प्रार्थना यह करूंगा कि गर्मियों में सर्वोच्च न्यायालय का अवकाश दो माह का होता है। इसको घटाकर तीस दिन का कर लें जब तक विचाराधीन मुकदमे तय न हो जाएं। मेरा एक सुझाव यह भी है कि जो जनहित याचिकाओं के नाम पर याचिकाएं स्वीकृत करते हैं, उन्हीं याचिकाओं को स्वीकृत करें जो राष्ट्रहित की हों या जो संवैधानिक दृष्टि से खरी होती हों। इसमें समय बहुत बरबाद होता है। इन्हीं को प्राथमिकता देनी चाहिए।

मेरा आखिरी सुझाव है कि जजों की ज्यादा भर्ती इसलिए नहीं हो सकती क्योंकि यहां छोटे-छोटे कर्मचारियों की भर्ती नहीं हो सकती। जब हम छोटे लोगों को नौकरी नहीं दे सकते तो जजों को ज्यादा भत्ता कैसे देंगे? इसलिए राष्ट्रहित में जो हमारी ड्यूटीज है वहीं न्यायाधीश महोदय पर भी लागू होती हैं। उन्हें इन बातों पर ध्यान देना चाहिए। एक छोटा सा सुझाव है कि अनुसूचित जाति, जनजातियों के लिए आरक्षण के नियम जो कि सभी जगहों पर लागू होते हैं, न्यायपालिकाओं पर भी लागू होने चाहिएं। इन्हीं शब्दों के साथ मैं इस विधेयक का समर्थन करता हूं।

THE DEPUTY CHAIRMAN: He has given good suggestions. There is so much of backlog in the courts. When we have backlog in Parliament, we sit beyond a certain time. Sometimes, we sat the whole night. The backlog should be cleared because justice delayed is justice denied. I think it is a correct attitude to adopt.

SHRI M. THAMBI DURAI: Madam, the suggestions of the hon. Member are well taken. As far as the pendency in courts is concerned, the Government is taking a lot of measures to see that the pendency is reduced, especially in the Supreme Court. It was nearly 30,000—40,000 and now it has reduced to 19,000. We are also suggesting to Judges in the High Courts that the pendency be reduced. For that, we are going to move certain provisions before the House. (*Interruptions*). In regard to the Cr. P.C....(*Interruptions*).

SHRI SANGH PRIYA GAUTAM: It should be conveyed to the hon. Supreme Court and the High Courts.

SHRI M. THAMBI DURAI: We will definitely do that. I am going to do that.

Also Madam, regarding the filling of vacancies of Judges...(*Interruptions*).

THE DEPUTY CHAIRMAN: He has got up. I do not want to interrupt.

SHRI M. THAMBI DURAI: Now, the Ministry has taken all the measures to see that the vacancies of Judges in the various courts are filled. The Chief Justice of the Supreme Court has also taken measures. In my Ministry, we are putting up the files. In due course, certainly, we

Regarding reservation, even the President mentioned in a conference that nearly 25 per cent of the population of

our country are belonging to the SC and ST and the minority communities. He also highlighted those aspects. I hope that the judicial officers who are taking the initiative will consider this. I would also make a request when I meet them. I would apprise them of Members' feeling that the SC, the ST, the minorities and women should get representation. I would request the Chief Justice and his collegium to consider all these things.

THE DEPUTY CHAIRMAN: Actually, I have a couple of more names. I have Mr. Fernandes who has given his name. Do you want to say something? Do you want to have a debate?

SHRI JOHN F. FERNANDES (Goa): Madam, as far as a discussion is concerned, from their side, he spoke. If I also speak, the balance will be maintained.

Madam, the other day, we were having a discussion about the National Judicial Commission—whether there should be a Judicial Commission to appoint the judiciary. Now, political parties are well controlled by the Election Commission. There is a code of conduct. There is also a code of conduct for the judiciary given by the Law Commission. It is pending. The Government has sent it to the judiciary for comments in 1993. It is pending there for five years. Madam, there is a revealing case. There was a land-grab in Ooty by some judicial officers. The case was taken to the Karnataka High Court. They have come in appeal to the Supreme Court and it is pending in the Supreme Court for the last 24 years. The Government also should take up that. I am not saying that they are biased to themselves and against politicians. Justice should be equitable. Will the Government take that into consideration and see that the National Judicial Commission is appointed? Such cases should be given priority. Those cases which are pending for 24 years before the Supreme Court where judges are involved in the land-grab in Ooty, should be taken up. If that is done, we will have a proper faith in the judiciary and the right signal will go to the nation.

THE DEPUTY CHAIRMAN: Dr. Biplab Dasgupta. Four minutes is your official time.

DR. BIPLAB DASGUPTA (West Bengal): I will take less then four minutes. I will even transfer some of my time to the BJP Members, if they want.

Madam, I am just mentioning two points. The hon. Member, Mr. Fernandes, has raised the point about the National Judicial Commission. We were discussing this in the course of a Private Memebr's Bill. This Commission should be incorporated in one way or the other. I am not talking about the Bill as such. Whatever is there in the Bill, we agree to that.

But we should look into the role of the judges in the society in a more comprehsensive manner. That could be one of the ways to do it. Otherwise, all kinds of artbitrariness is coming into the system. For example on the issue of appointments, on the issue of promotions, on the issue of transfers, all kinds of controversies are emerging. But if there is a National Judicial Commission, if there is proper representation for the Executive, the Legislature and the Executive, it is possible perhaps to have a system which removes the arbitrariness that comes in the way. How can it be done? The Law Minister can do it. I had already requested him on this issue while I was speaking on the Private Members Bill. So, I do not want to repeat the argument. It is a very important issue, which I hope would be taken up by the Minister. The second point is in relation to the question of autonomy and integrity. We want the independence of the Judiciary on the one hand because this is very important for the Constitution and for our society. On the other hand, the question of integrity is also very important. Independence should be linked with integrity. What has been happening is this. We do come to know about various

issues like corruption and so on. Now, judges are not different from the rest of the society. If there is corruption in the rest of the society, if there is prejudice in the rest of the society, judges coming out of that society cannot become above board. There has to be some checks and balances to ensure that there is some accoutability of the activities of the judges. You cannot aviod that. Now, we have a number of problems. For example, somebody is there in the Supreme Court as a judge. If he is corrupt, how can he be removed? The procedure for removing a judge is very combersome. There has to be 100 MPs from Lok Sabha making the petition and on that basis, the Speaker or the Chairman probably takes a decision on this issue. But even after that, it has to be approved by the two-thirds majority of the Members of both the Houses of Parliament. This is too rigid. We had one such occasion in 1991 when such a petition was placed before the hon. Speaker with specific charges, based on the audit report, against a particular judge. I am not mentioning his name. This fact is known to everybody. The Speaker had recommended the motion. But somehow, when it came to the House, one major section of the House had decided not to take part in the voting. So it did not get the requisite two-thirds majority. It was lost. There has been no other case. It has not been easy to have a two-thirds majority in both the Houses. It has not been easy to make 100 PMs agree to some concrete charges which arose from the audit report. So, when this issue of corruption comes, we find that even if we have a very serious case, you will find that there may not be sufficient Members in the Parliament asking for impeachment by not participating in the voting and all that. There has to be some change to ensure accountability. How can this be done? I do not know. It is for the lawyers to look into this matter. But there has to be some procedure for making it easier whenever such issues come up before the House. *(Interruptions)*

THE DEPUTY CHAIRMAN: Dr. Biplab Dasgupta, you were going to give your time to the BJP. But now, it seems that you are taking their time.

DR. BIPLAB DASGUPTA: I conclude, Madam. Thank you. But I will give my time to Mr. Gurudas Das Gupta and not to the BJP.

THE DEPUTY CHAIRMAN: You have said that you will give it to the BJP. It is a part of the record. Shrimati Kamla Sinha. In fact, we have allotted one hour for this item and then everybody is speaking for one minute, two minutes and so on.

SHRIMATI KAMLA SINHA (Bihar): Can I start, Madam?

THE DEPUTY CHAIRMAN: Yes.

SHRIMATI KAMLA SINHA: Madam, I support this Bill in letter and spirit. I share the apprehension expressed by my colleagues, Dr. Biplab Dasgupta, Shri Sangh Priya Gautam and Shri John F. Fernandes. So, I agree with the viewpoints expressed by my hon. colleagues here. Madam, you have also said that justice delayed is justice denied. Starting from District Courts to Sessions Courts to High Courts to Supreme Court, what we see is that justice is delayed. During the National Emergency I was in Jail. I had seen women confined to jail only as undertrials for fifteen years. Half of their lifetime was gone like that. What is this? So, judges must do something to give quick redressal to the priosners and they should take a compassionate view. As Mr. Sangh Priya Gautam has suggested, they should discharge their duties responsibility. I appreciate the hon. Minister's version that he will see to it that SCs, STs, the minorities so also the women are to be given due representation. I thank him for saying so. I will appreciate him, if he implements it.

श्री रामदेव भंडारी (बिहार): मैडम, मैं माननीय सदस्यों के विचारों से अपनी सहमति व्यक्त करता हूं। माननीय गौतम साहब ने शिड्यूल्ड कास्ट्स और शिड्यूल्ड ट्राइब्स के रिजरवेशन के बारे में कहा है। उस

संबंध में मैं कहना चाहता हूं कि पिछड़े वर्ग के जो लोग हैं जिनकी संख्या इस देश में 52 प्रतिशत से अधिक है और माइनारिटी के लोग हैं जिनकी संख्या जहां तक मेरी जानकारी है 15 प्रतिशत से अधिक है, उन लोगों के लिए भी जुडीशियरी में रिजरवेशन होना चाहिए।

यह जो भारतीय समाज है इसमें सैकड़ों वर्षों से बहुत बड़ा असंतुलन रहा है, बड़ी विषमता रही है। हमने दूसरे क्षेत्रों में भी प्रयास किया है जैसे नौकरियों में आरक्षण के लिए मंडल कमीशन लागू किया। उसी तरह से जुडीशियरी में जो इस देश के शिड्यूल्ड कास्ट्स, शिड्यूल्ड ट्राइब्स और पिछडे वर्ग के लोग हैं, माइनारिटी के लोग हैं उनके लिए भी आरक्षण होना चाहिए। इस पर भी मंत्री जी विचार करें। बिहार सरकार ने अपने स्तर से एक बार प्रयास किया था कि जुडीशियरी में पिछड़े वर्गों के लिए और माइनारिटीज़ के लिए आरक्षण हो मगर उन्हें उसमें सफलता नहीं मिली। मैं मंत्री जी से आग्रह करूंगा कि मंत्री जी इस पर विचार करें और उन लोगों के लिए भी जुडीशियरी में आरक्षण की व्यवस्था करें।

इन्हीं बातों के साथ मैं अपनी बात समाप्त करता हूं।

SHRI R. MARGABANDU: Madam, from the lowest court in the district, the Munsiff Court or the Magistrate Court, up to the Supreme Court cases are pending. The cases are pending for generations, forty or fifty years. By the time the case is decided several generations pass. The original plaintiff or the defendant is no longer alive. It is their legal representatives who are coming in. This should be put an end to.

There are certain other problems also. the strength of the judges in the High Courts has been fixed some 50 years or 60 years ago when the rate of population and the rate of litigation are small. The same strength of Judges still continues in the High Courts. Taking into consideration the growth of population and the growth of litigation, the strength of Judges will have to be re-determined for quick disposal of the cases. There are a lot of vacancies in the Subordinate Judiciary. There are a lot of vacancies, in the High Courts. Even the sanctioned For example, in the Madras High Court, the sanctioned strength is 42. But there are only 30 or 32 judges. About ten judges have not been posted. This is a recurring phenomenon. At no point of time, all the vacanices are filled up. So, if that is the case, how can the cases be disposed of? Further, a second appeal filed in the High Court takes about twenty years to come in the list. And, when it comes to the Supreme Court, it is the end of the matter. So, in view of all this, the strength of judges in the High Courts should be increased and the vacancies should be filled up. In the case of subordinate judiciary, appointments should be made immediately by each State. Inaction on the part of the judiciary and on the part of the Government in conducting proper examinations for selection of officers of subordinate judiciary causes a lot of hardship. For years together, several courts are without judges. How can we expect *(Time Bell rings)* that justice will be done?

Then, lengthy arguments and undue procedures prescribed in the Civil Procedure Code and the Criminal Procedure Code are responsible for delays in the proceedings. Even if an order is passed in a small interlocutory application, it is being taken up to the District court and then to the High Court for the CRP and then it reverts. For each and every IA, the matter is taken to the High Court. In that way, even for 20 or 25 years, the trail in the district munsiff courts is not completed. Madam, in most of the cases, injustice is being done on two counts.

THE DEPUTY CHAIRMAN: I want to bring you back to the normal discussion. I must remind you one thing. This is another procedural matter that you are referring to. This is a matter which is very limited. Do you want their salaries to be increased or not? If you want their salaries to be increased, then say so. If you don't want their salaries to be increased, then say so. *(Interruptions)*

Just one second, Please. The matter is very lengthy. There are thousands and thousands and lakhs and lakhs of cases which are pending in the courts. I will have no objection, if, in the next Session, you request the hon. Chairman for a discussion in the House. The Law Minister will come and you can suggest various measures. You can also have a meeting outside the House so that we can redress the problems of the prople. I am sure, at the fag end of the day, your very good points are going to get lost somewhere. Why don't you reserve them for some better time?

SHRI R. MARGABANDU: I will take only one minute and conclude, Madam. There are two things in the courts, Madam. One is that, the incompetence of a judge results in injustice. The other is that the corruption of a judge results in injustice. These are the two things that are prevailing in courts. A judge has got the independent authority to write the judgment. Even if a wrong judgment is passed, until it is set aside, it remains good. So, there should be accountability of the judiciary. There should be a screening committee at the High Court level to go through the judgments delivered by a particular judge. If that committee comes to the conclusion that a judgment has been given purposely and with dishonest intensions, either because of incompetence or corruption, that judge should be removed from the post. Unless there is some fear in the judiciary, I don't think the people who approach the courts will ever get justice.

THE DEPUTY CHAIRMAN: Now, from the BJP, five Members have given their names. We can't have all of them.

SHRI CHUNNI LAL CHAUDHARY (Uttar Pradesh): I will take just one minute, Madam.

THE DEPUTY CHAIRMAN: If you want, I don't mind. I can sit through the night and allow a full-fledged debate. But then, I will allow Shrimati Urmilaben also. I will allow other people also.

SHRI CHUNNI LAL CHAUDHARY: There are only one or two suggestions.

THE DEPUTY CHAIRMAN: I know there are only one or two suggestions. But we are not reviewing the working of the judiciary. I am sorry about Shri Sangh Priya Gautam, who made his point and went away.

SHRI SANGH PRIYA GAUTAM: I am here, Madam.

THE DEPUTY CHAIRMAN: Oh! You are here. You went away from your seat! Go back. *(Interruptions)* Your are merrily sitting and talking to someone else.

SHRI SANGH PRIYA GAUTAM: Madam, I sit here up to the last.

THE DEPUTY CHAIRMAN: You started a debate. Now if you want to have a debate on it, I have no problem.

AN HON. MEMBER: We will have the debate in the next session.

THE DEPUTY CHAIRMAN: It is should not go unreplied. I am sure the Minister is not going to reply on the issues which you have made spontaneously. I feel, there should be a proper structured debate on this issue because it is a very serious matter. It is a serious matter as hundreds and thousands of people are affected, their families are affected. There are civil cases; there are criminal cases. Kamlaji just said that for 15 years women — and men also — are in jails without even a trial. So, something has to be done. I don't mind if you speak, but it is very late now. ...*(Interruptions)*... Now Chaudhary Chunni Lal.

श्री चुन्नी लाल चौधरी: माननीय उपसभापति महोदया, मैं केवल सजेशंस दूंगा। मैं इलाहबाद हाईकोर्ट को बिलांग करता हूं। पेंडेंसी का कारण जजेज की कमी है। वहां 90 की स्ट्रेंथ थी और 70 जज थे जिन में से 24 और कम हो गए और अभी तक 6 महीने हो गए, उन की नियुक्ति नहीं हुई। दूसरे जो बैंच की प्रक्रिया है, उस से मैं सहमत नहीं हूं। मैं माननीय मंत्री जी का ध्यान आकर्षित करूंगा कि जो क्रिमिनल एक्सपर्ट हैं, उसे सिविल में, सिविल का एक्सपर्ट रेवेन्यू में और रेवेन्यू के

एक्सपर्ट० टि में बैठा दिए जाते हैं जिस कारण उन स जितना डिस्पोजल अपेक्षित किया जाता है, वह नहीं होता है। तीसरा मेरा सुझाव है, मैं बड़े अदब से आप का भी संरक्षण चाहूंगा, हमारे यहां जजेज लोग पढ़कर नहीं आते हैं। कोर्ट में बहस सुनते हैं, समय लगाते हैं और इसलिए यह भी हक पेंडेंसी का कारण है। महोदया, पिछले साल लिखित उत्तर आया कि इलाहाबाद हाईकोर्ट में इस समय 1,27,000 पेंडेंसी थी और इस समय वह लगभग 2 लाख हो गयी है। अंत में मैं कहूंगा कि आरक्षण की व्यवस्था न हो, लेकिन मैं मंत्री जी का ध्यान जरूर आकर्षित करना चाहूंगा कि सुप्रीम कोर्ट में अनुसूचित जाति का एक भी जज नहीं है जबकि दो-दो सीनियर चीफ-जास्टिस गुजरात और केरल हाईकोर्ट के हैं, लेकिन उन में से किसी को जज नहीं बनाया जा रहा है। जब हाईकोर्ट में भी एक-से-एक काबिल जज जा रहे हैं। महोदया, मैं सिर्फ आरक्षण की बात नहीं कहता, मेरिट की बात करता हूं शेड्यूल्ड कास्ट के भी मेरीटोरियस एडवोकेट्स 11 हाईकोर्ट्स में है। वह बहस कर रहे हैं, लेकिन उन की ओर किसी का ध्यान नहीं जाता है। मेरा निवेदन है कि इस बारे में भी सरकार ध्यान दे। बहुत-बहुत धन्यवाद।

श्री बी०पी० सिंघल (उत्तर रदेश): मैडम, केवल दो पॉइंट्स कहने थे। पहली चीज तो यह कि हाईकोर्ट और सुप्रीम कोर्ट में जो वैकेशंस की प्रथा चली जा रही है, वह ब्रिटिश-काल में थी जब कि वे समर-वेकेशंस में शिप से इंग्लैंड जाते थे तो उस के लिए उन को दो महीने की जरूरत पड़ती थी। अब यह सब आर्केइक हो गया है। यहां पर मंत्री जी ने जो प्रपोजल दिया है, उस में सर्विसेस का एक्जाम्पल कोट किया है कि सर्विसेस की जो अन-एवेल्ड लीव है, वह पे की जाए, उसी आधार पर उन को भी दी जाए। मेरा निवेदन यह है कि उन की सर्विसेस के आधार पर उन के वर्किंग अवर्स और उन के वर्किंग डेज दोनों ही पैरिटी पर आएं, तब तो वह बात जमती है अन्यथा वह बात जमती नहीं है। उन को जब दो महीने की वेकेशंस मिलेगी तो उन की एक महीने की छुट्टी बची रहेगी। इस नाते से इस पर गौर करें। तीसरी बात आप केसेस को प्रॉयरिटी देते हैं, जैसे में एक केस 40 साल से पेंडिंग है और पी०आई०एल० कल लगी और आज जजमेंट हो गया। तो इस की प्रॉयरिटीज का उन के पास कोई प्रिंसीपल है या जब चाहे केस ले लिया और जब चाहे छोड़ दिया। फिर केसेस 40 साल से पड़े हुए है। इस व्यवस्था का भी कुछ उपचार होना चाहिए।

SHRI GOPALSINH G. SOLANKI (Gujarat): Madam, I have only two or three points to make. Madam, so far as pendency of cases is concerned, the whole judicial system has to be changed from top to bottom. The Judges have to be expertised in particular subjects. If they are dealing with criminal cases, then the summary trial and the warrant trial cases must be separated and they should be disposed off. Otherwise, the disposal mania will kill the whole judiciary. The method which has been adopted by the Lok Adalats is not justifiable beeause the people are being denied justice. This system has to be changed. At the same time, it has to be decentralised by introducing many benches of the Supreme Court as well as by introducing many benches of the various High Courts. For every 25,000 to 30,000 population, there should be magistrate who can handle the cases actively then and there so that this load of cases can be reduced.

श्री गोविन्दराम गिरी (मध्य प्रदेश): उपसभापति महोदया, मैं इस विधेयक के समर्थन के लिए खड़ा हुआ है। यहां मैं यह कहना चाहता हूं कि इस वेतन-वृद्धि से सरकारी खजाने पर जो बोझ आएगा, उसके अनुपात में इसका लाभ देश को, समाज को और न्याय चाहने वालों को भी मिलना चाहिए। यह कहा जाता है, जैसा आपने कहा कि विलंब से जो न्याय दिया जाता है वह न्याय नहीं होता और इसलिए मैं चाहूंगा कि जल्दी मामलों का निरकारण हो, जज अधिक समय तक बैठकर निर्णय लें। जहां तक वेतन वृद्धि का है, तो पांचवें वेतन आयोग की सिफारिश के बाद तो इनके वेतन में भी वृद्धि होनी चाहिए। हाई कोर्ट और सुप्रीम कोर्ट के जो जज के पद हैं, वह संवैधानिक पद हैं। उनकी जो सुप्रीमेसी है वह बनी रहनी चाहिए, लेकिन जहां हम हाई कोर्ट और सुप्रीम कोर्ट के जजों के वेतन में वृद्धि कर रहे हैं, वहीं हमें यह भी देखना होगा कि वहां जो सब-आर्डिनेट जुडिशियरी के हैं, उनकी स्थिति ठीक नहीं है। क्योंकि उनके पास कोर्ट में बैठने को कमरे ठीक से नहीं है, उनके लिए मकान नहीं है, जिससे उनको न्याय देने में काफी कठिनाई होती है। मुझे उम्मीद है कि माननीय मंत्री महोदय इस तरफ भी ध्यान देंगे।

महोदया, पी०आई०एल० की बात बहुत से सदस्यों ने की है, मैं यह कहना चाहता हूं कि कभी कभी ऐसा

लगता है कि जुडीशियल एक्टिविज्म जो है वह बहुत ज्यादा हो रहा है और जैसी ब्रिटिश में कहावत है कि किंग केन डू नो रोंग, उसी प्रकार से आजकल भारत में लगता है कि जुडिशियरी केन डू नो रोग। हमारी जो यह परंपरा बनी है कि कार्यपालिका, विधायिका और न्यायपालिका का आपस में सामंजस्य रहे, एक दूसरे का सम्मान करे, वह बनी रहनी चाहिए। इन्हीं शब्दों के साथ में इस विधेयक का समर्थन करता हूं। धन्यवाद।

डा० (श्रीमती) उर्मिला चिमनभाई पटेल (गुजरात): उपसभापति महोदया, मैं यह कहना चाहती हूं कि देश के बहुत से डवलपमेंटल प्रोजेक्ट जो हैं उनकी सरकार से क्लीयरेन्स लेने में तीन, चार, पांच साल लग जाते हैं और इसके बाद अगर प्रोजेक्ट इंटरस्टेट के हो तो ट्रिबुनल में जाने से उसको पांच, सात साल और लग जाते हैं। इसके बाद अगर कोई थर्ड पार्टी लिटिगेशन हो गया तो कोर्ट उसमें स्टे दे देती है, जिससे दस साल, पन्द्रह साल, बीस साल तक उसमें विकास की प्रक्रिया मंद हो जाती है। मैं इस हाऊस के माध्यम से अनुरोध करना करना चाहती हूं कि जुडिशियरी को यह सोचना चाहिए कि विकास की प्रक्रिया न रुके, प्रोजेक्ट चालू रहें, अगर कोई डिस्प्यूट हो या किसी के कोई और इंटरेस्ट डेमेज होते हों तो उसको जरूर प्रोटेक्ट करे, लेकिन प्रोजेक्ट का काम रोकने से इन बीस साल में तीन गुना, पांच गुना, पन्द्रह गुना प्राइस एसकेलेशन हो जाती है और पूरा प्रोजेक्ट कोस्ट एफेक्टिव नहीं रहता है। इसके बारे में जरुर जूडीशियरी को सोचना चाहिए क्योंकि इस कोस्ट एसकेलेशन की जिम्मेदारी आखिर कौन लेगा? इसलिए जरूरी है कि अगर हमारा देश जल्दी विकास करना चाहता है तो विकास के जो प्रोजेक्ट है उनके बारे में जुडीशियरी या तो तुरन्तु डिसीजन ले या फिर स्टे न दे।

महोदया, इतना ही मुझे निवेदन करना था। धन्यवाद।

SHRI GURUDAS DAS GUPTA (West Bengal): Madam, We have sat much beyond the time limit of this Bill. We have said that justice delayed is justice denied. Madam, I would say that it is not only because of piling up of cases that justice is being denied to thousands of people. It is not only because of the piling up of cases. Madam, there are two Therefore, while we are discussing about "justice delayed is justice denied", we should also discuss how costly justice is. Taking that into consideration, I am only appealing to you and the Government, to take this part of the problem — rising cost of litigation — into consideration. If the Government does not arrange for free legal service to the common people, whatever reservation you make for the backward classes and backward sections no justice would be available to the common people of the country. Thank you.

THE DEPUTY CHAIRMAN: What Mr. Gurudas Das Gupta says is, the lawyers are expensive. Yes. But, why do judges give them time? They just go and take time and the case goes on and on.

SHRI GURUDAS DAS GUPTA: Madam, it is an undeclared co-operation between the two sections of the judiciary to make more money...(*Interruptions*)... Madam, it is undeclared co-operation between the two sections... (*Interruptions*)...

SHRI GOPALSINH G. SOLANKI: Madam, the lawyers take adjournments whenever they like.

THE DEPUTY CHAIRMAN: If you want, you can seek adjournment of the House also...(*Interruptions*)...But, I am not going to comply with it.

SHRI M. THAMBI DURAI: Madam, as you have observed and many hon. Members have said that justice delayed is justice denied. It is a fact. For that, the Government has taken many measures...(*interruptions*)...The Government is aware of the difficulties faced by the litigants, basically, due to delay in disposal of cases. In view of the recommendations of the Chief Justice Conference in 1993, the Government has taken various measures in this regard. The measures include, amendment of the Civil Procedure Code and the Criminal Procedure Code, increase in the number of posts of judges of the High Courts, provision of statutory-based Lok Adalats and vesting it with the powers of a civil court after the expansion of the provision of Chapter III of the Legal Services Authorities act, 1987, to all the States and the Union Territories, appointment

of special judicial or metropolitan magistrates and adoption of other alternative and locally appropriate methods of dispute resolution. The Government is also providing Plan funds to the State Governments and the Union Territory adminstrations by way of Centrally-sponsored schemes for strengthening and for infrastructure facilities for the judiciary. Madam, important things—firstly, the simplifcation of procedure is essentially important; and secondly, the high cost of litigation. Madam, we are discussing judges. There are lawyers who charge exorbitant fees in different courts. There are laywers who are charging Rs. one lakh just for one appearance in a court and for seeking adjournment Rs. 252 crores have already been released. In addition to the above, the various High Courts have taken a number of steps for expeditious disposal of cases, grouping up and classification of cases involving similar questions of law, setting up of special benches, computerisation of records, etc. The High Courts have also issued instructions to their subordinate courts to recduce frequent adjournment of cases. It is because of adjournment of cases, the cost is going up. That is the reasons why we are requesting them.

Madam, regarding the pendency of cases, in the Supreme Court, the pendency has come down from 1,00,493 as on 31st December, 1991 to 19,561 as on 1st May, 1998. Despite the increase in disposal of cases in High Courts, the backlog of pending cases in High Courts has increased due to change in the pattern of litigation. In the High Courts, the total number of cases pending as on 31.12.1995 were 29.8 lakhs whereas the total number of cases as on 31.12.1997 rose to 31.85 lakhs. The pendency of cases in subordinate courts decreased from 2.18 crores as on 31.12.1995 to about 2 crores as on 31.12.1997. The Law Commission has recommended, in its 154th Report, for comprehensive amendment of the Criminal Procedure Code. Madam, the Code of Criminal Procedure (Amendment) Bill, 1994, was introduced in the Rajya Sabha, which contains a number of measures for quick disposal of cases.

Regarding Lok Adalats, I would like to submit, that the Lok Adalats have proved to be an effective mechanism for alternative resolution of disputes through persuation and conciliatory efforts. An hon. Members has asked about the pendency of cases in Allahabad High Court. I would like to submit that 50 per cent of the total cases are pending in four High Courts. For example, in Allahabad High Court 8,65,450 cases are pending. In Madras High Court 3,26,690 cases are pending, in Calcutta High Court 2,82,209 cases are pending, and in Kerala High Court 2,50,267 cases are pending. (*Interruptions*)...

So far as filling up of vacancies is concerned, we are taking all sort of measures to fill them up, especially after the Supreme Court's judgement and after the reference of the President. The file is almost cleared. It may be pending somewhere. In due course they will be filled up. We are active in this regard and taking all sort of measures.

Then, some hon. Members raised a point regarding some corruption charge against judiciary. Judiciary is an independent body. We ar not interfering with their functioning. There may be one or two cases of corruption. We do not know how far it is true.

THE DEPUTY CHARIMAN: I think, the Bill does not deal with this issue. Of course, I know you are keen to answer, but when we have a full-fledged debate, we will discuss all these things.

SHRI M. THAMBI DURAI: Madam, more or less, all the Members have asked for it. So, I have to answer. ...(*Interruptions*)...

THE DEPUTY CHAIRMAN: No, you need not answer all these things.

SHRI M. THAMBI DURAI: Most of the judges are doing well. There may be some cases, but we cannot make a sweeping remark on the judiciary. They are functioning well. They are an independent body. We do not want to give motivation for that. *(Interruptions)*

Then, Mr. Faleiro asked about the National Judicial Commission.

THE DEPUTY CHAIRMAN: Now you have made him Faleiro! He is John Fernandes.

SHRI M. THAMBI DURAI: John Fernandes? I am sorry for that.

THE DEPUTY CHAIRMAN: I think, a lot of baptism is taking place in this House.

SHRI M. THAMBI DURAI: Madam, it is not only in this House, but in Lok Sabha also the Members are raising this issue, that is, when are we going to establish the National Judicial Commission? This is even in the agenda of the ruling party. We are paying due consideration to it. Even hon. Member, Shri Gadgil, also raised this issue the other day when he was speaking on the Private Member's Resolution. At that time also many hon. Members raised this issue. So, we are finding, more or less, a unanimity on this issue in both the Houses. Members want the National Judicial Commission. Therefore, it is high time and the Government would consider this request and will try to see that this kind of measure is brought at an early date to satisfy all the Members.

SHRIMATI KAMLA SINHA: Bring it in the next session.

SHRI M. THAMBI DURAI: We will consider it.

THE DEPUTY CHAIRMAN: The Minister was right in saying that according to our Consitution, the judiciary is an independent body. As we do not want anybody's undue interference in our matters, the judiciary also do not want this. Just as we say that all judges are not corrupt, in the same way all politicians are not corrupt. So, let us keep up the spirit of our Constitution in this matter. We are happy to pass the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 1998.

THE DEPUTY CHAIRMAN: The question is:

> "That the Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN: Now we will take up clause-by clause consideration of the Bill.

Clauses 2 to 11 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI M. THAMBI DURAI: I move:

> "That the Bill be returned."

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: Since the prices are escalating, we hope that this legislation will help them to find better houses and facilities.

MESSAGE FROM THE LOK SABHA

The Appropriation (Railways) No. 4 Bill, 1998

SECRETARY-GENERAL: Madam, I have to report to the House the following message received from the Lok Sabha signed by the Secretary-General of the Lok Sabha:

> "In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Appropriation (Railways) No. 4 Bill, 1998, as passed by Lok Sabha at its